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In re Application of
HASBERG, Josef
U.S. Application No.: 09/445,974
PCT No.: PCT/EP98/02667
International Filing Date: 06 May 1998
Priority Date: 16 June 1997
Attorney's Docket No.: 016273/00120
For: PINCERS FOR MOVING FLEXIBLE STRAND
MATERIAL

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Petition To The Commissioner In Accordance With 37 CFR 1.181(a)(3)" filed on 11 April 2003, which seeks to confirm the filing of a petition to revive the application (with accompanying materials) on 19 June 2000. No petition fee is required.

BACKGROUND

On 06 May 1998, applicant filed international application PCT/EP98/02667 which claimed a priority date of 16 June 1997 and which designated the United States. On 23 December 1998, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 12 December 1998, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 16 December 1999.

On 15 December 1999, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, a translation of the international application into English. The submission did not include payment of the basic national fee.

On 16 February 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned with respect to the United States for failure to pay the basic national fee within thirty months of the priority date.

On 11 April 2003 applicant filed the petition under 37 CFR 1.181 considered herein. This petition asserts that applicant filed a petition to revive the application, with accompanying materials, on 19 June 2000. The petition includes copies of the materials filed on 19 June 2000 and a related return postcard receipt.

DISCUSSION

A. Petition Under 37 CFR 1.181

A review of the application file confirms the presence of the materials filed by applicant on 19 June 2000 (transmittal letter, petition to revive, executed declaration, small entity statement, power of attorney from assignee, assignment, and fee payment). The papers bear a USPTO receipt stamp dated 19 June 2000, confirming the asserted filing date.

Based on the above, the petition under 37 CFR 1.181 to confirm the 19 June 2000 filing is moot.

B. Petition To Revive Under 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 19 June 2000 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in paying the fees within the 30 month time limit under the provisions of 37 CFR 1.495(b)(2) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the required small entity basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

The declaration filed by applicants on 19 June 2000 does not comply with the requirements of 37 CFR 1.497, however, in that it does not set forth the citizenship of the inventor. Accordingly, a new declaration is required.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

CONCLUSION

Applicant's petition under 37 CFR 1.181, filed 11 April 2003, is **MOOT**.

Applicant's petition for revival under 37 CFR 1.137(b), filed 19 June 2000, is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497.



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